

# **CHARTER SCHOOL COVERAGE APPLICATION PACKET**



**Prepared by the  
Utah Division of Risk  
Management**

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## Application/Due Diligence Deadlines

### Process

### Deadline

<input type="checkbox"/> Charter Board Application Deadline	January 31 <sup>st</sup>
<input type="checkbox"/> Charter Board Interim Premium Payment Deadline	January 31 <sup>st</sup>
<input type="checkbox"/> Risk Management Due Diligence Deadline	July 1 <sup>st</sup>
<input type="checkbox"/> Risk Management Denial/Approval Notification Letter	July 1 <sup>st</sup>
<input type="checkbox"/> Approved Charter Board School Year Premium Payment	Per Invoice

8.





State of Utah

GARY R. HERBERT  
*Governor*

GREG BELL  
*Lieutenant Governor*

## Department of Administrative Services

KIMBERLY K. HOOD  
*Executive Director*

Division of Risk Management  
TANI PACK DOWNING  
*Director*


Date: November 18, 2011  
To: New Charter School Boards, Officers, and Directors  
From: Tani Pack Downing, State Risk Manager  
Re: Risk Fund Application Information and Instructions

### I. INTRODUCTION – CHARTER SCHOOL COVERAGE

State law requires that all charter schools procure adequate liability and other appropriate insurance; however, charter schools are not required to obtain insurance through a designated carrier. The Utah Division of Risk Management (“DRM”) provides property, casualty, and liability coverage to most public charter schools in the State of Utah. A summary of DRM’s coverage and premium options is attached hereto.

### II. MANAGEMENT MODELS & COVERAGE<sup>1</sup>

Due to challenges associated with segregating liability and maintaining governmental immunity, DRM has determined that it will not extend coverage to any new charter school if its management model does not comport with one of the models in the following table. If it does not comport, coverage is not automatic. Further consideration and approval are needed as explained below.

Model One	Model Two	Model Three
<div>Charter School</div> <p>Director, teachers, and staff are school employees</p> <p>Charter school has not engaged a service provider for management and/or educational support</p>	<div>Charter School</div> <p>Director, teachers, and staff are school employees</p>  <div>Service Provider</div> <p>Independent service provider(s) engaged to support school operations</p>	<p>Director, teachers, and staff are school employees</p> <div>Charter School</div> <div>Service Provider</div> <p>Service provider places representative(s) in school to manage daily operations</p>

<sup>1</sup> See attached Discussion Memorandum, pp. 15 – 16.

### III. INTERIM LIABILITY COVERAGE FOR NEW CHARTER SCHOOLS

A. Liability Concerns Prior to Opening. Because new charter school boards can create liability as they make hiring decisions and take other actions to prepare the school for opening, DRM has created an option for interim general liability coverage to eligible charter schools from formation until the first day of school or August 30<sup>th</sup>, whichever occurs first.

B. Interim Liability Coverage and Premium. In accordance with the pertinent terms and conditions of the Risk Management Fund Insurance Policy, DRM, in its sole discretion, may extend general liability coverage to new charter schools for a premium of \$1000.00, once all of the following steps have been completed:

1. Charter school's timely submittal of an application for coverage;
2. DRM approval for coverage; and
3. DRM's receipt of the \$1,000.00 premium.

C. Application Deadlines for Interim Coverage and Due Diligence. Inasmuch as liability can be created before charter schools open their doors, charter boards are encouraged to obtain interim liability coverage as soon as possible and certainly no later than the commencement of their planning year (normally from July 1<sup>st</sup> – June 30<sup>th</sup>). To be considered as participants in the Risk Management Fund, the charter school board's application and premium must be received by DRM on or before January 31<sup>st</sup> of the year the school is approved for opening (e.g., January 31, 2012, for schools approved for opening in 2012). DRM will complete its due diligence assessment and notify the charter board of its eligibility for post-opening, school-year coverage on or before July 1<sup>st</sup> of the planning year (e.g., July 1, 2012, for schools approved for opening in 2012), provided the charter school cooperates in the due diligence process.

D. Termination/Cancellation of Interim Coverage. This interim liability coverage shall automatically terminate **annually** at midnight on August 30<sup>th</sup> or upon the first day of school, whichever occurs first. At DRM's sole discretion, interim liability coverage may be renewed or cancelled, based upon the charter school's compliance or noncompliance with DRM's due diligence criteria. If DRM cancels interim liability coverage at a date other than on the automatic termination date, it will provide 30 days' written notice to the charter board chairperson.

E. No Guarantee of School-Year Coverage. The provision of interim liability coverage is no guarantee that DRM will extend regular liability coverage (post-opening, school-year coverage) to the charter school after interim coverage is terminated or cancelled. Moreover, the \$1000.00 premium for interim liability coverage shall not result in extending property and casualty coverage to a start-up charter school and its board. To obtain property coverage from DRM for acquired facilities and contents, each new charter school board must be accepted by the State Risk Manager as a full participant in the Risk Management Fund; must provide an accurate schedule (including valuations) of those assets and; and must pay an additional premium to DRM.

#### **IV. SCHOOL-YEAR COVERAGE FOR NEW CHARTER SCHOOLS**

Coverage eligibility for the new charter schools' inaugural year will be determined after DRM has completed its due diligence assessment. As indicated in Section II. C. above, DRM will complete that assessment and issue a participant eligibility letter to each applying charter school board on or before the 1<sup>st</sup> day of July, provided the charter school cooperates in the due diligence assessment.

#### **V. DRM SERVICES**

A. Loss Control Services. Upon receipt of a timely application and premium for interim coverage, DRM's loss control professionals will provide normal and customary training, inspections, and consulting services to the new charter school boards and their designated agents to address physical and human resource liability issues, such as human resource policies and practices; performance management; board governance; physical facility development; building due diligence surveys; and environmental and life safety policies and practices. DRM will not, however, provide loss control services to service providers with which a new charter school has contracted.

B. Claims Services. DRM will also provide claims management services, in accordance with the pertinent terms and conditions of the Risk Management Fund Insurance Policy, with respect to claims that arise after the receipt of a timely application, approval, and premium.

#### **VI. APPLICATION/CONTACT INFORMATION**

A. Application. To obtain interim coverage, please submit the attached application and premium payment to Brian Nelson, Loss Control Manager, State Risk Management, 5120 State Office Building, Salt Lake City, UT 84114. Mr. Nelson can be reached via telephone (801.538.3213) or email ([benelson@utah.gov](mailto:benelson@utah.gov)).

B. Loss Control Contacts. The Loss Control Specialist assigned to address physical liability issues for charter schools is Michael Marshall (telephone: 801.538.9583; email: [mcmarshall@utah.gov](mailto:mcmarshall@utah.gov)). The Loss Control Specialist responsible for human resource and employment issues is Sol Garcia (telephone: 801.538.9564; email: [sgarcia@utah.gov](mailto:sgarcia@utah.gov)).

C. Claims Services. Claims should be reported promptly to Lisa Adams, Claims Adjuster, at 801.538.9641. Claim questions should be directed to your assigned adjuster or to the Claims Manager, Jeffrey Coates ([jcoates@utah.gov](mailto:jcoates@utah.gov) or 801.538.9568).

Please contact us if you have any questions about this coverage and the services we provide.

Sincerely,

TANI PACK DOWNING  
State Risk Manager

## **Risk Management's Insurance Rates for Charter Schools – FY 2012**

Below is a list of insurance rates and coverages offered by Utah State Risk Management to approved Charter Schools, as shown on the Utah State Office of Education website. The rates are approved by the Legislature each year, and they are included in the annual Utah State Appropriations Act. If your charter school is interested in requesting insurance, the school's Director or Business Manager should contact Brian Nelson at (801) 538-9576 or Brian Spencer at (801) 538-3213.

The following information is for new enrollment or renewals, beginning 7/1/11 thru 6/30/12  
(These rates are unchanged from last year):

### **LIABILITY INSURANCE**

Coverage: Up to \$2,212,700 (Charter Schools are included under the Utah State Governmental Immunity Act).

Deductible: None.

Premium: \$18 per student with a \$1,000 minimum per school.

### **PROPERTY (BUILDING AND/OR CONTENTS) INSURANCE**

Coverage: Up to the replacement value of the property as estimated by the school at the beginning of the fiscal year. Course of construction insurance may also be available.

Deductible: \$1,000 per occurrence.

Premium: \$100 minimum premium for up to \$100,000 in value.  
Over \$100,000 in value, the rate is \$1 per thousand dollars in value  
(for example - \$1,000,000 in property/contents coverage costs \$1,000).

### **VEHICLE COMPREHENSIVE / COLLISION INSURANCE**

Coverage: The cost of repairs to the school's vehicle, but not in excess of the current value of the vehicle.

Deductible: \$500 per occurrence.

Premium: \$150 per year per vehicle.

### **EMPLOYEE DISHONESTY/THEFT/COMMERCIAL CRIME COVERAGE**

Coverage: The amount of a proven loss.

Deductible: None.

Premium: \$250 per year per school.



## CHARTER SCHOOL APPLICATION FOR PARTICIPATION IN THE RISK MANAGEMENT FUND

**Introduction:** Pursuant to UCA 63A-4-204.5, participation in the Risk Management Fund (“Fund”) requires the joint approval of the State Risk Manager and the Governing Body of each charter school. Accordingly, each new charter school is expected to complete and submit the following application. Submitting this application does not guarantee participation in the Fund. After the Division of Risk Management has completed its due diligence assessment, the State Risk Manager will notify the Governing Body whether the charter school is approved as a participant in the Fund.

**Name of School:** \_\_\_\_\_

**Physical Address of School:** \_\_\_\_\_

**Interest in School Facilities:** (check applicable box)

- ☐ Purchase/ownership (attach purchase/ownership documentation)
- ☐ Lease (attach lease agreement)

**Coverage Requests:** (check desired lines of coverage)

- ☐ General Liability
- ☐ Property (not available for leased facilities)
- ☐ Contents (furniture, equipment, etc.)
- ☐ Auto (available only for entity-owned vehicles)

**Identification of Governing Body:** Board of Directors (all board members must be identified):

Names	Addresses	Phone/Email
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Student Demographics** (indicate and complete all that apply):

- ☐ Estimate of student population: \_\_\_\_\_
- ☐ Kindergarten
- ☐ Grades 1 – 6
- ☐ Grades 7 – 8
- ☐ Grades 7 – 9
- ☐ Grades 9 – 12
- ☐ Grades 10 – 12
- ☐ Other:  
\_\_\_\_\_



**Identification of Service Providers:** A “Service Provider” is an entity that the Governing Body has engaged to provide managerial and/or consulting services. “Service providers” are not individuals or entities that provide janitorial, clerical, or food services.

- ☐ Names/Addresses/Telephone Numbers of Service Provider(s):

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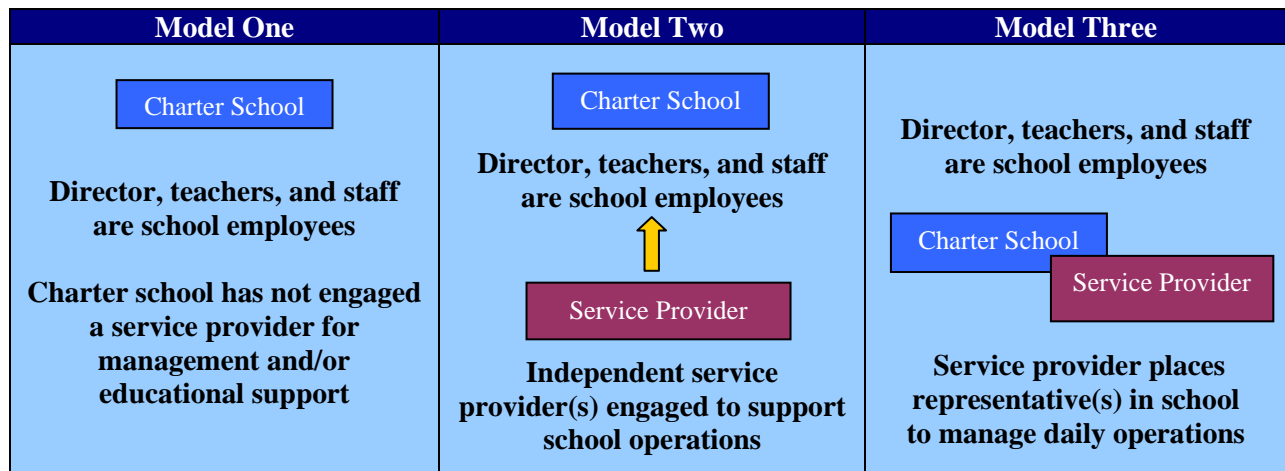
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- ☐ Attach copies of all Service Provider Contracts/Agreements.

**Affirmation of Management Model:** The Governing Body affirms that its management model comports with one of those illustrated in the diagram below and understands that the Division of Risk Management will not extend coverage if the charter school’s management model deviates from the models below.



**Due Diligence Requirements:** By submitting this application, the Governing Body and its agents agree to cooperate with Division of Risk Management personnel in conducting a due diligence assessment, which will identify and evaluate potential exposures to the Risk Fund.

**Participant Duties:** Among the duties Utah Code Ann. § 63A-4-103(2)(b) establishes for the participating entities of the Risk Management Fund are complying with reasonable risk-related recommendations made by the State Risk Manager and participating in risk management training conducted or sponsored by the State Risk Manager. Applicant understands that it will be expected to fulfill those obligations, together with other responsibilities provided in statute and rule.



**Identification of Principal Contact:** Indicate the school's point(s) of contact relative to this application and the due diligence assessment. This individual may not be a service provider.

Names	_____	_____
Addresses	_____	_____
Phone/Email	_____	_____
Titles	_____	_____

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Prepared by: _____	Date: _____
Signature	
Name: _____	
Title: _____	

Submitted by: _____	Date: _____
Signature	
Name: _____	
Title: _____	

**CHARTER SCHOOL DUE DILIGENCE  
ASSESSMENT & COVERAGE RECOMMENDATION**  
*(For Internal Use Only)*

**Name of School:** \_\_\_\_\_

**Physical Address of School:** \_\_\_\_\_

**Confirmation of Interest in School Facilities:** (check applicable box)

- ☐ Purchase/ownership (documentation received and reviewed)
- ☐ Lease (lease agreement received and reviewed)

**Coverage Requests:** (confirm appropriate lines of coverage)

- ☐ General Liability (faculty, staff, premises, etc.)
- ☐ Property (buildings—not available for leased facilities)      Value: \$ \_\_\_\_\_
- ☐ Contents (furniture, equipment, etc.)      Value: \$ \_\_\_\_\_
- ☐ Auto (available only for entity-owned vehicles)
  - Number of vehicles: \_\_\_\_\_
  - Types of vehicles: \_\_\_\_\_

**Student Demographics** (confirm and complete all that apply):

- ☐ Estimate of student population: \_\_\_\_\_
- ☐ Kindergarten
- ☐ Grades 1 – 6
- ☐ Grades 7 – 8
- ☐ Grades 7 – 9
- ☐ Grades 9 – 12
- ☐ Grades 10 – 12
- ☐ Other: \_\_\_\_\_

**Confirmation of Service Providers and Service Provider Agreements:**

- ☐ Names/Addresses/Telephone Numbers of Service Provider(s):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ Service Provider Contracts/Agreements provided and reviewed:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Physical Due Diligence:** Check all assessments completed and note any concerns.

- ☐ USOE Requirements Satisfied
  - Construction/Renovation plans approved by code official \_\_\_\_\_
  - Actual Construction/Renovation approved by certified inspector \_\_\_\_\_
  - Occupancy Permit issued by Fire Marshall \_\_\_\_\_
- ☐ Physical Facilities
  - Type of Construction \_\_\_\_\_
  - Square Footage \_\_\_\_\_
  - Hazardous Occupancy \_\_\_\_\_
  - Security \_\_\_\_\_
  - Fire Protection Systems \_\_\_\_\_
  - ADA Compliance \_\_\_\_\_
  - Certified Inspection \_\_\_\_\_
  - Fire Marshall Inspection \_\_\_\_\_
  - Emergency Services Access \_\_\_\_\_
  - Student Drop-off/Pick-up \_\_\_\_\_
  - Access to Services and Vendors \_\_\_\_\_
  - Traffic, Vehicle, and Parking \_\_\_\_\_
  - Playground \_\_\_\_\_
  - Environmental Hazard Evaluation \_\_\_\_\_
- ☐ Preparedness
  - Fire and Evacuation Plan \_\_\_\_\_
  - Crisis Intervention Plan \_\_\_\_\_
  - Safe School Policy \_\_\_\_\_
  - Emergency Situation Flip Chart \_\_\_\_\_
  - List of Safety Policies and Procedures \_\_\_\_\_
  - Care Room and First Aid Responders \_\_\_\_\_
  - SNAP Student Neighborhood Access Program \_\_\_\_\_
- ☐ Plans & Programs
  - Volunteer Program \_\_\_\_\_
  - Security and Identification Program \_\_\_\_\_
  - Parking and Traffic Plan \_\_\_\_\_
  - At-Risk Programs and Curriculum \_\_\_\_\_
  - OSHA Mandated Programs (if they apply) \_\_\_\_\_
    - Bloodborne Pathogen
    - Hazard Communication
    - Confined Space
    - Asbestos Abatement
    - Lock out – Tag out
    - Lead Exposure
    - Personal Protection Requirements
    - Safety Training Plan

**Administrative/Employment Due Diligence:** Check all assessments completed and note any concerns.

- ☐ Receipt/review of charter document \_\_\_\_\_
- ☐ Board of Directors \_\_\_\_\_
  - Consistency within charter document, by-laws, and articles of incorporation
  - Open Meeting Act training and compliance
- ☐ Confirmation of Other Coverage
  - Treasurer's Bond \_\_\_\_\_
  - Workers Compensation \_\_\_\_\_
- ☐ Accounting/Record-Keeping Systems and Capabilities \_\_\_\_\_
  - Financial Check/Balance Protocols
  - Yearly financial audits conducted by independent auditor
  - Board receipt and approval of yearly budget and regular financial reports
- ☐ Human Resource Management
  - HR management staff experience \_\_\_\_\_
  - Employment policies addressing: \_\_\_\_\_
    - At-will employment
    - Title VII discrimination/harassment
    - Americans with Disabilities Act
    - Age Discrimination in Employment Act
    - FMLA (if applicable)
    - Ethics standards and code of conduct
    - Use of Social media
    - Use of school property and electronic equipment
    - Conflict of interest
    - Employee discipline and termination (at will)
    - Acceptance of gifts and donations
    - USERRA
    - Employee evaluations
    - Violence-free workplace
    - Drug-free workplace
    - Expectation of privacy and search
    - Conflict of interest
    - Nepotism
    - Posting of employee notices (EEOC, FLSA, FMLA, etc.)
  - Hiring and firing \_\_\_\_\_
    - Teacher credentials
    - Background checks
    - Job descriptions
    - Employment contracts
- ☐ Administrative Policies and Procedures \_\_\_\_\_
  - Bids for contracts for goods and services
  - Acceptance of gifts and donations
  - Use of school buildings by community groups
  - Admission and enrollment

- Student discipline and due process
- Safe school
- Bullying and Hazing
- Student code of conduct
- Athletic safety
- Off-campus trips
- Storage and dispensation of Rx to students
- Social media and use of electronic equipment by students
- Volunteers
- ☐ Training \_\_\_\_\_
  - Workplace Harassment and Discrimination
  - Driver Safety
- ☐ Identification of legal counsel: \_\_\_\_\_
- ☐ Additional concerns: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Recommendation:** The undersigned recommend that the subject charter school's application for participation in the Risk Fund be [ ] approved [ ] denied. Our rationale for recommending that the application be denied follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Sol Garcia

\_\_\_\_\_  
Michael Marshall



State of Utah

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*Governor*

GREG BELL  
*Lieutenant Governor*

## Department of Administrative Services

KIMBERLY K. HOOD  
*Executive Director*

Division of Risk Management  
TANI PACK DOWNING  
*Director*

[Date]

[Charter School Board Chair]  
[Address of Board Chair]

[Charter School Director/Principal]  
[Address of Charter School]

### **RE: RISK MANAGEMENT FUND ELIGIBILITY**

Dear [Board Chair and Director/Principal]:

I sincerely appreciate [Charter School's] request to participate in the Risk Management Fund ("Fund"). As you know, that participation requires the joint approval of the charter school's Governing Body and the State Risk Manager. Unfortunately, for the reasons summarized below, I have decided to deny your application:

[Denial Rationale Summary]

If you have any questions or concerns about this denial, please feel free to contact me.

Sincerely,

TANI PACK DOWNING  
State Risk Manager



State of Utah

GARY R. HERBERT  
*Governor*

GREG BELL  
*Lieutenant Governor*

## Department of Administrative Services

KIMBERLY K. HOOD  
*Executive Director*

Division of Risk Management  
TANI PACK DOWNING  
*Director*

[Date]

[Charter School Board Chair]  
[Address of Board Chair]

[Charter School Director/Principal]  
[Address of Charter School]

### **RE: RISK MANAGEMENT FUND ELIGIBILITY**

Dear [Board Chair and Director/Principal]:

I sincerely appreciate [Charter School's] request to participate in the Risk Management Fund ("Fund"). As you know, that participation requires the joint approval of the charter school's Governing Body and the State Risk Manager. I am pleased to inform you that your application has been approved and the following coverage is now in effect: [property, liability, etc.]

You will presently be receiving a premium notice. Please tender your premium within the time required to ensure that coverage continues during the school and fiscal year. If you have any questions concerning your premium, please contact Brian Spencer, our Director of Administrative Services, at 801.538.3213.

As one of our covered entities, you have the benefit of experienced loss control and claims services. If you have any questions about those services, please contact our Claims Manager, Jeff Coates, at 801.538.9568, or our Loss Control Manager, Brian Nelson, at 801.538.9576.

On behalf of the entire Risk Management team, we welcome you as one of our valued, covered customers.

Sincerely,

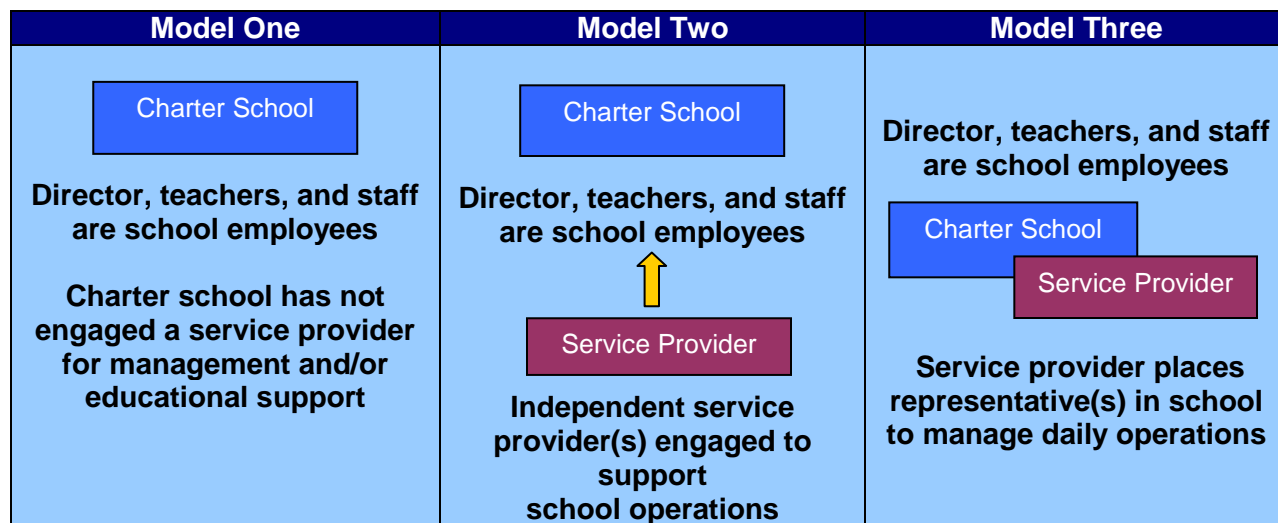
TANI PACK DOWNING  
State Risk Manager

# DISCUSSION MEMORANDUM

TO: CHARTER SCHOOL BOARDS, ADMINISTRATORS, AND SERVICE PROVIDERS  
FROM: TANI PACK DOWNING, STATE RISK MANAGER  
DATE: OCTOBER 25, 2011

**Objectives, Qualifications, and Dialogue.** We sincerely appreciate the opportunity to engage in a helpful dialogue concerning the management models some of our charter schools have adopted. We recognize that the Division of Risk Management (DRM) does not have the authority, desire, or intent to dictate how charter schools manage themselves. That choice is theirs. Nor do we intend to disparage any of the service providers, who are providing a valuable service to their customers. Rather, we are simply attempting to manage the Risk Management Fund responsibly. By this memorandum, we hope to promote further discussions with the schools we cover and the service providers they work with.

**Charter School Management Models and DRM Coverage.**<sup>2</sup> Immediately below is a chart illustrating the management models that operate within our risk appetite. A more detailed analysis of each model's principal characteristics follows.



**Management Model One.** When the charter school movement began, those that opted into the Risk Management Fund were organized into a more traditional model, wherein the director/principal, business manager, teachers, and support staff were and are employees of the school. In this model, when management and employees are acting in the course and scope of

<sup>2</sup> While DRM currently covers charter schools that employ other management models, to be eligible for coverage on or after July 1, 2012, each charter school will be expected to certify, by May 1, 2012, that it employs one of the management models shown in the table. Charter schools that do not employ the models in the table will then have sufficient time to explore other insurance options before the end of the fiscal year (June 30, 2012).



their employment, they are advancing the interests of the school and have the benefits and protection of the Governmental Immunity Act.

**Management Model Two.** As they proliferated, charter schools turned to private sector independent contractors (“service providers”) to provide management, financial, and curriculum services; however, the director/principal, business manager, teachers, and support staff have remained employees of the school. In this model the service providers are located in separate facilities and do not place their employees in the charter school. Consequently, there is a brighter line of separation between the actions and decisions of the charter school’s employees and the service provider’s employees.<sup>3</sup>

**Management Model Three.** Presumably, to provide more immediate and effective service to their contracted schools, service providers have located some of their employees within the facilities of the charter schools they serve. The duties of those service provider employees include business management, financial management, human resources management, and support services. Because of the dual roles in which the service provider employees function, this model is acceptable only if the agreements between the service providers and the charter school do not obligate the charter school to indemnify the service providers for the service providers’ misfeasance or malfeasance.

**Finding a Clear and Reasonable Line in the Sand.** We are just beginning to gather information about the management models of our covered charter schools. We are also welcoming input to ensure that our ultimate decision is clear and reasonable. At this juncture, however, our risk appetite is causing us to strain at management models that present significantly blurred lines of operation—more specifically, schools whose Principal/Director is also an employee or principal owner of a service provider. In this and similar models, when decisions made by the Principal/Director result in liability, the fundamental coverage question will be: Was the Principal/Director acting on behalf of the School Board or on behalf of his private employer, the service provider? Even if the service provider has procured applicable insurance, the service provider’s insurer will consistently assert that the Principal/Director was acting as an agent of the Board and attempt to transfer all liability to the Risk Fund. This issue is further complicated by the reality that private employees are not protected by the Governmental Immunity Act.

**Templates.** To assist us in addressing new charter school applications to participate in the Risk Fund, we have developed some draft templates to help us work more efficiently and predictably. Those templates are enclosed/attached for your review and comment.

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<sup>3</sup> Several years ago, Risk Management (“Risk”) discovered that some of the service contracts required the charter school to indemnify the service provider for the negligent or wrongful acts of the service provider. Risk helped the charter schools re-negotiate those contracts with the cooperation of the service providers.